

## CHEESE

**10268. Action to enjoin and restrain the interstate shipment of cheese and cheese products. U. S. v. H. Phillips Wescott (the Wescott Cheese Co. and the Wescott Cheese Factory). Injunction granted. (Inj. No. 118.)**

**COMPLAINT FILED:** November 8, 1945, District of Vermont, against H. Phillips Wescott, trading as the Wescott Cheese Co. and the Wescott Cheese Factory, at East Poultney, Vt. The complaint charged that from on or about July 5, 1942, to the date upon which the complaint was filed, the defendant had been manufacturing and shipping in interstate commerce cheese and cheese products which were adulterated; that the products had been manufactured in a building which was dirty and out of repair and without sufficient drainage or adequate water supply; that the building was without adequate screening for the purpose of keeping out flies and insects; that the milk used by the defendant was dirty and unfit for human consumption and contained filthy and deleterious substances; that there were rodents in and about the building and equipment and in the cheese which was stored in the building; that there was a large amount of rodent excreta in the building and on the cheeses and raw material in the building; and that cheese and cheese products containing insects, flies, cow hairs, cat hairs, human hairs, rodent hairs, rodent filth, insect fragments, maggots, and other foul and filthy matter had been shipped in interstate commerce.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

**PRAYER OF COMPLAINT:** That the defendant be restrained and enjoined during the pendency of the action and permanently from shipping adulterated food of his manufacture in interstate commerce.

**DISPOSITION:** On November 21, 1945, with the consent of the defendant, a preliminary injunction was issued. On March 6, 1946, the defendant having consented to the issuance of the permanent injunction, an order was entered permanently enjoining the defendant from the commission of the acts complained of.

**10269. Action to enjoin and restrain the interstate shipment of cheese products. U. S. v. Empire State Cheese Co., John A. Marino, and Carolyn M. Tarantine. Injunction granted. (Inj. No. 143.)**

**COMPLAINT FILED:** July 11, 1946, Western District of New York, against the Empire State Cheese Co., a partnership, Olean, N. Y., and John A. Marino and Carolyn M. Tarantine, partners. The complaint charged that since January 1, 1946, the defendants had been manufacturing, selling, and shipping in interstate commerce substantial amounts of cheese products which were adulterated; that prior to January 1, 1946, the business was conducted under the name of Olean Ice Cream Co., and that John A. Marino was one of the partners, but that Carolyn M. Tarantine was not a member of the firm; that in May and June of 1944, inspections of the plant showed that its manufacturing practices were highly insanitary; that the milk being used at the time contained a high percentage that was unfit for human consumption, and there was evidence of fly breeding and rodent infestation in the plant; and that on August 19, 1944, and September 14, 1945, inspections showed that the plant was still operating under deplorable insanitary conditions.

It was further alleged in the complaint that the firm was again inspected on April 10, 1946; and that the name of the firm had been changed to the Empire State Cheese Co., composed of the individuals named above. Tests were made at the time which showed that approximately 42 percent of the milk being used was unfit for human consumption. The plant was being operated under generally repulsive insanitary conditions, and rodent and insect infestation was rampant throughout the plant. Between March 26 and June 13, 1946, various samples were collected from shipments of cheese made by the firm. These samples were found to contain rodent hair fragments, mites, cheese skippers, pupae, rodent-gnawed areas, mold, insect parts, rodent excreta, and miscellaneous dirt.